

EXHIBIT A

TERMS AND CONDITIONS

Tire Product Commercialization and Applied Technologies Grant Program FY 2003/2004

This grant may not be funded unless the proposed Grantee meets the following two conditions:

- 1) The proposed Grantee must pay all outstanding debts owed to the California Integrated Waste Management Board within ninety (90) days from the date of the grant award.
- 2) The proposed Grantee must complete, sign, and return the Grant Agreement within ninety (90) days from the date recorded on the Grant Agreement package's cover letter.

The following terms used in this Grant Agreement (Agreement) have the meanings given to them below, unless the context clearly indicates otherwise:

- "CIWMB" means the California Integrated Waste Management Board.
- "Executive Director" means the Executive Director of the CIWMB or his or her designee.
- "Grant Agreement" and "Agreement" means all documents comprising the agreement between the CIWMB and the Grantee for this Grant.
- "Grant Manager" means the CIWMB staff person responsible for monitoring the grant.
- "Grantee" means the recipient of funds pursuant to this Agreement.
- "Program" means the **Tire Product Commercialization and Applied Technologies** Grant Program.
- "State" means the State of California, including, but not limited to, the CIWMB and/or its designated officer.

1. ACKNOWLEDGEMENTS

The Grantee shall acknowledge the CIWMB's support each time projects funded, in whole or in part, by this Agreement are publicized in any news media, brochures, or other type of promotional material. The acknowledgement of the CIWMB's support must incorporate the CIWMB logo and state "California Integrated Waste Management Board. Zero Waste-You make it happen!" Initials or abbreviations for the CIWMB shall not be used. The Grant Manager may approve deviation from this prescribed language on a case-by-case basis where such deviation is consistent with the CIWMB's Communication Strategy and Outreach Plan.

2. ADVERTISING/ PUBLIC EDUCATION

The Grantee shall submit copies of all draft public education or advertising materials to the Grant Manager for review and approval prior to the Grantee's production of materials.

3. AIR OR WATER POLLUTION VIOLATION

Under the State laws, the Grantee shall not be:

- a. In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
 - b. Subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
 - c. Finally determined to be in violation of provisions of federal law relating to air or water pollution.
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4. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless

made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated into this Agreement is binding on any of the parties.

5. AMERICANS WITH DISABILITIES ACT

The Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. § 12101 et seq.)

6. ANTITRUST CLAIMS

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Code Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

7. ASSIGNMENT, SUCCESSORS AND ASSIGNS

a. This Agreement may not be assigned by the Grantee, either in whole or in part, without the CIWMB's prior written consent.

b. The provisions of this Agreement shall be binding upon and inure to the benefit of the CIWMB, the Grantee, and their respective successors and assigns.

**8. AUDIT/RECORDS
ACCESS**

The Grantee agrees that the CIWMB, the Department of Finance, the Bureau of State Audits, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment date or grant term end date, whichever is later, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Grantee agrees to allow the designated representative(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any contract or subcontract related to performance of this Agreement.

[You may find it helpful to share the Terms and Conditions and Procedures and Requirements with your finance department. Examples of audit documentation include, but are not limited to: expenditure ledger, payroll register entries and time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts, change orders, invoices, and/or cancelled checks.]

**9. AUTHORIZED
REPRESENTATIVE**

The Grantee shall continuously maintain a representative vested with signature authority authorized to work with CIWMB on all grant-related issues. The Grantee shall, at all times, keep the Grant Manager informed as to the identity of the authorized representative.

**10. AVAILABILITY OF
FUNDS**

The CIWMB's obligations under this Agreement are contingent upon and subject to the availability of funds appropriated for this grant.

**11. CHILD SUPPORT
COMPLIANCE ACT**

For any agreement in excess of \$100,000, the Grantee acknowledges that:

- a. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The Grantee, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

12. COMMUNICATIONS

All communications from the Grantee to the CIWMB shall be directed to the Grant Manager. All notices, including reports and payment requests, required by this Agreement shall be given in writing by E-mail, letter, or FAX to the Grant Manager as identified in Exhibit B—Procedures and Requirements. If an original document is required, prepaid mail or personal delivery to the Grant Manager is required following the E-mail

13. COMPLIANCE

The Grantee shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits. The Grantee shall provide evidence, upon request, that all local, state, and/or federal permits, licenses, registrations, and

approvals have been secured for the purposes for which grant funds are to be expended. The Grantee shall maintain compliance with such requirements throughout the grant period. The Grantee shall ensure that the requirements of the California Environmental Quality Act are met for any approvals or other requirements necessary to carry out the terms of this Agreement. Any deviation from the requirements of this section shall result in non-payment of grant funds.

With each Payment Request (CIWMB 87), the Grantee's signature authority shall either initial and certify under penalty of perjury that the Grantee's General Checklist of Permits, Licenses, and Filings (CIWMB 669) on file with the CIWMB is current and complete, or submit an updated General Checklist of Permits, Licenses, and Filings (CIWMB 669) available at:
www.ciwmb.ca.gov/Grants/Forms/CIWMB669.doc.

14. CONFIDENTIALITY/ PUBLIC RECORDS

The Grantee and the CIWMB acknowledge that each party may come into possession of information and/or data that may be deemed confidential or proprietary by the person or organization furnishing the information or data. Such information or data may be subject to disclosure under the California Public Records Act, Government Code ("GC") Section 6250 et seq. The CIWMB agrees not to disclose such information or data furnished by the Grantee and to maintain such information or data as confidential when so designated by the Grantee in writing at the time it is furnished to the CIWMB, but only to the extent that such information or data is exempt from disclosure under the California Public Records Act.

15. CONFLICT OF INTEREST

The Grantee needs to be aware of the following provisions regarding current or former state employees. If the Grantee has any questions on the status of any person rendering services or involved with this Agreement, the CIWMB must be contacted immediately for clarification.

Current State Employees (Public Contracts Code (PCC) § 10410):

- a. No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity, or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC § 10411):

- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve month period prior to his or her leaving state service.

If the Grantee violates any provisions of above paragraphs, such action by the Grantee shall render this Agreement void. (PCC § 10420).

**16. CONTRACTORS/
SUBCONTRACTORS**

The Grantee will be entitled to make use of its own staff and such contractors and subcontractors as are mutually acceptable to the Grantee and the CIWMB. Any change in contractors or subcontractors must be mutually acceptable to the parties. Immediately upon termination of any such contract or subcontract, the Grantee shall notify the Grant Manager.

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the CIWMB and any contractors or subcontractors of Grantee, and no agreement with contractors or subcontractors shall relieve the Grantee of its responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to the CIWMB for the acts and omissions of its contractors and subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its contractors and subcontractors is an independent obligation from the CIWMB's obligation to make payments to the Grantee. As a result, the CIWMB shall have no obligation to pay or to enforce the payment of any moneys to any contractor or subcontractor.

17. CONTROLLING LAW

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California

**18. COPYRIGHTS AND
TRADEMARKS**

- a. The Grantee assigns to the State any and all rights, title, and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement, including the right to register for copyright or trademark of such materials. Grantee shall require that its contractors and subcontractors agree that all such materials shall be the property of the State. Upon written request by the Grantee, the CIWMB may give, at the Executive Director's sole discretion, written consent to the Grantee to retain all or any part of the ownership of these rights.
- b. The State through the CIWMB hereby grants to the Grantee a royalty-free, nonexclusive, nontransferable license to reproduce, translate, and distribute copies of the materials produced pursuant this Agreement, for nonprofit purposes, and to have or permit others to do so on the Grantee's behalf.

**19. CORPORATION
QUALIFIED DOING
BUSINESS IN
CALIFORNIA**

When work under this Agreement is to be performed in California by a corporation, the corporation shall be in good standing and currently qualified to do business in the State. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

**20. DISCRETIONARY
TERMINATION**

- The Executive Director shall have the right to terminate this Agreement at his or her sole discretion at any time upon thirty (30) days written notice to the Grantee. Within forty-five (45) days of receipt of written notice, Grantee is required to:
- a. Submit a final written report describing all work performed by the Grantee;
 - b. Submit an accounting of all grant funds expended up to and including the date of termination; and,
 - c. Reimburse the CIWMB for any unspent funds.

21. DISPUTES

Unless otherwise instructed by the Grant Manager, the Grantee shall continue with its responsibilities under this Agreement during any dispute.

**22. DRUG-FREE
WORKPLACE
CERTIFICATION**

The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California, the Grantee agrees that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (GC § 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions that will be taken against employees for violations.
- b. Establish a drug-free awareness program to inform employees about all of the following: (1) the dangers of drug abuse in the workplace, (2) the Grantee's policy of maintaining a drug-free workplace, (3) any available counseling, rehabilitation, and employee assistance programs, and (4) penalties that may be imposed upon employees for drug abuse violations.
- c. Require that each employee who works on the grant: (1) receive a copy of the drug-free policy statement of the Grantee, and (2) agrees to abide by the terms of such statement as a condition of employment on the grant.

**23. EFFECTIVENESS OF
AGREEMENT**

This Agreement is of no force or effect until signed by both parties.

**24. ENTIRE
AGREEMENT**

This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with all attachments hereto, contains the entire Agreement of the parties.

**25. ENVIRONMENTAL
JUSTICE**

In the performance of this Agreement, the Grantee shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State.

**26. EXPATRIATE
CORPORATIONS**

The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California, the Grantee agrees that the Grantee is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

**27. FAILURE TO
PERFORM AS
REQUIRED BY THIS
AGREEMENT**

The CIWMB will benefit from the Grantee's full compliance with the terms of this Agreement only by the Grantee's:

- a. Investigation and/or application of technologies, processes, and devices which support reduction, reuse, and/or recycling of wastes; or
- b. Cleanup of the environment; or
- c. Enforcement of solid waste statutes and regulations, as applicable.

Therefore, the Grantee shall be in compliance with this Agreement only if the work it performs results in:

- a. Application of or information, a process, usable data or a product which can be used to aid in reduction, reuse, and/or recycling of waste; or
- b. The cleanup of the environment; or
- c. The enforcement of solid waste statutes and regulations, as applicable.

28. FORCE MAJEURE

Neither the CIWMB nor the Grantee, its contractors, vendors, or subcontractors, if any, shall be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, flood, or other contingencies unforeseen by the CIWMB or the Grantee, its contractors, vendors, or subcontractors, and beyond the reasonable control of such party.

29. FORFEIT OF GRANT FUNDS/REPAYMENT OF FUNDS IMPROPERLY EXPENDED

If grant funds are not expended, or have not been expended, in accordance with this Agreement, or if real or personal property acquired with grant funds is not being used, or has not been used, for grant purposes in accordance with this Agreement, the Executive Director, at his or her sole discretion, may take appropriate action under this Agreement, at law or in equity, including requiring the Grantee to forfeit the unexpended portion of the grant funds and/or to repay to the CIWMB any funds improperly expended.

30. GRANTEE'S INDEMNIFICATION AND DEFENSE OF THE STATE

The Grantee agrees to indemnify, defend, and save harmless the State, its officials, officers, agents, employees, and servants from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Grantee in the performance of this Agreement.

31. GRANTEE'S NAME CHANGE

A written amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the CIWMB will process the amendment. Payment of Payment Requests presented with a new name cannot be paid prior to approval of the amendment.

32. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Grantee within the immediately preceding two-year period because of the Grantee's failure to comply with an order of a federal court which orders the Grantee to comply with an order of the National Labor Relations Board. (Not applicable to public entities.)

33. NO AGENCY RELATIONSHIP CREATED/ INDEPENDENT CAPACITY

The Grantee and the agents and employees of Grantee, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the CIWMB.

**34. NON-DISCRIMINATION
CLAUSE**

- a. During the performance of this Agreement, Grantee and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment on the bases enumerated in GC §§ 12900 et seq.
- b. The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California that the Grantee has, unless exempted, complied with the nondiscrimination program requirements (GC § 12990 (a-f)) and California Code of Regulations, Title 2, Section 8103).
- c. Grantee shall include the above nondiscrimination and compliance provisions of this section in all contracts to perform work under this Agreement.

**35. OWNERSHIP OF
DRAWINGS, PLANS,
AND SPECIFICATIONS**

The State shall have separate and independent ownership of all drawings, design plans, specifications, notebooks, tracings, photographs, negatives, reports, findings, recommendations, data, software, and memoranda of every description or any part thereof, paid for in whole or in any part with grant funds. Copies thereof shall be delivered to the CIWMB upon request. Grantee agrees, and shall require that its contractors, subcontractors, and vendors agree that the State shall have the full right to use said copies in any manner when and where it may determine without any claim to additional compensation.

36. PATENTS

The Grantee assigns to the State all rights, title, and interest in and to each invention or discovery that may be capable of being patented, that is conceived of or first actually reduced to practice in the course of or under this Agreement, or with the use of any grant funds. Upon written request by the Grantee, the CIWMB may give, at the Executive Director's sole discretion, written consent to the Grantee to retain all or any part of the ownership of these rights.

37. PAYMENT

- a. The Budget, attached to and incorporated herein by reference to this Agreement as Exhibit D, states the maximum amount of allowable costs for each of the tasks identified in the Work Plan, which is attached to and incorporated herein by reference to this Agreement as Exhibit C. The CIWMB shall reimburse the Grantee for only the work and tasks specified in the Work Plan at only those costs specified in the Budget and incurred in the term of the Agreement.
- b. The Grantee shall carry out the work described on the Work Plan in accordance with the Budget, and shall obtain the Grant Manager's written approval of any changes or modifications to the Work Plan or the Budget prior to performing the changed work or incurring the changed cost. If the Grantee fails to obtain such prior written approval, the Executive Director, at his or her sole discretion, may refuse to provide funds to pay for such work or costs.
- c. The Grantee shall request reimbursement in accordance with the procedures described in the Procedures and Requirements.
- d. Ten percent (10%) will be withheld from each Payment Request and paid at the end of the grant term, when all reports and conditions stipulated in this Agreement have been satisfactorily completed.
- e. Lodgings, Meals and Incidentals: Unless otherwise provided for in this Agreement, Grantee's Per Diem eligible costs are limited to the amounts authorized in the California *State Administrative Manual* (contact your Grant Manager for more information).
- f. Payment will be made only to the Grantee.

- g. Reimbursable expenses shall not be incurred unless and until the Grantee receives a Notice to Proceed as described in Exhibit B..

38. PERSONAL JURISDICTION

The Grantee consents to personal jurisdiction in the State of California for all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties.

39. REAL AND PERSONAL PROPERTY ACQUIRED WITH GRANT FUNDS

- a. All real and personal property, including equipment and supplies, acquired with grant funds shall be used by the Grantee only for the purposes for which the CIWMB approved their acquisition for so long as such property is needed for such purposes, regardless of whether the Grantee continues to receive grant funds from the CIWMB for such purposes.
- b. Subject to the obligations and conditions set forth in this section, title to all real and personal property acquired with grant funds, including all equipment and supplies, shall vest upon acquisition in the Grantee.

40. RECYCLED-CONTENT CERTIFICATION

The Grantee shall certify the minimum, if not the exact, percentage of postconsumer and secondary material in the products, materials, goods, and supplies purchased with grant funds. This certification shall be provided to the CIWMB on the Recycled Content Certification Form (CIWMB 74G) available at <http://www.ciwmb.ca.gov/Grants/Forms/CIWMB074GTire.doc>.

41. RECYCLED-CONTENT PAPER

All documents submitted by the Grantee must be printed double-sided on recycled-content paper containing one hundred percent (100%) post-consumer fiber.

42. RECYCLED-CONTENT PRODUCT PROCUREMENT

In the performance of this Agreement, for purchases made with grant funds, the Grantee shall purchase recycled-content products (RCP), as defined by the State Agency Buy Recycled Campaign (SABRC) minimum recycled content requirements see www.ciwmb.ca.gov/BuyRecycled/StateAgency/. If the Grantee cannot purchase RCP's, the Grantee must document why it was unable to comply with this requirement.

43. REDUCTION OF WASTE

In the performance of this Agreement, grantee shall take all reasonable steps to ensure that materials purchased or utilized in the course of the project are not wasted. Steps should include, but not be limited to: the use of used, reusable, or recyclable products; discretion in the amount of materials used; alternatives to disposal of materials consumed; and the practice of other waste reduction measures where feasible and appropriate.

44. REDUCTION OF WASTE TIRES

Unless otherwise provided for in this Agreement, in the performance of this Agreement, for purchases made with grant funds, the Grantee shall purchase only California waste tires and California waste tire-derived products. As a condition of final payment under this Agreement, the Grantee must provide documentation substantiating the source of the tire materials used during the performance of this Agreement to the Grant Manager.

45. REMEDIES

Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under this Agreement, at law or in equity, and exercise of one right or remedy shall not be

deemed a waiver of any other right or remedy.

46. RESOLUTION

A county, city, district, or other local public body must provide the CIWMB with a copy of a resolution, order, motion, or ordinance of the local governing body, which by law has authority to enter into an agreement, authorizing execution of this Agreement and designating the job title of the individual authorized to sign on behalf of the local public body.

47. SEVERABILITY

If any provisions of this Agreement are found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement without affecting any other provision of this Agreement. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.

48. SITE ACCESS

The Grantee shall allow the State to inspect sites at which grant funds are expended and related work being performed at any time during the performance of the work and for ninety (90) days after completion of the work.

49. STOP WORK NOTICE

Immediately upon receipt of a written notice from the Grant Manager to stop work, the Grantee shall cease all work under this Agreement.

50. SWEATFREE CODE OF CONDUCT

a. All Grantees contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies obtained with Grant funds have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Grantee further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The Grantee agrees to cooperate fully in providing reasonable access to the Grantee's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the Grantee's compliance with the requirements under paragraph (a).

51. TERMINATION FOR CAUSE

The CIWMB may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the CIWMB may proceed with the work in any manner deemed proper by the CIWMB. All costs to the CIWMB shall be deducted from any sum due the Grantee under this Agreement.

52. TIME IS OF THE ESSENCE

Time is of the essence to this Agreement.

53. UNION ORGANIZING

By signing this Agreement, the Grantee hereby acknowledges the applicability of GC §§ 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Agreement and hereby certifies that:

- a. No grant funds disbursed by this grant will be used to assist, promote, or deter union organizing by employees performing work under this Agreement.
 - b. If the Grantee makes expenditures to assist, promote, or deter union organizing, the Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.
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54. UNRELIABLE LIST

Prior to authorizing a contractor(s) to commence work under this Grant, the Grantee shall submit to the CIWMB a declaration from the contractor(s), signed under penalty of perjury, stating that within the preceding three (3) years, none of the events listed in Section 17050 of Title 14, California Code of Regulations, Natural Resources, Division 7, has occurred with respect to the contractor(s). See www.ciwmb.ca.gov/Regulations/Title14/ch1.htm#ch1a5. If a contractor is placed on the CIWMB Unreliable List after award of this Grant, the Grantee may be required to terminate that contract.

55. VENUE/ CHOICE OF LAW

- a. All proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder shall be held in Sacramento County, California. The parties hereby waive any right to any other venue. The place where the Agreement is entered into and place where the obligation is incurred is Sacramento County, California.
 - b. The laws of California shall govern all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder.
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56. WAIVER OF CLAIMS AND RECOURSE AGAINST THE STATE

The Grantee agrees to waive all claims and recourse against the State, its officials, officers, agents, employees, and servants, including, but not limited to, the right to contribution for loss or damage to persons or property arising out of, resulting from, or in any way connected with or incident to this Agreement. This waiver extends to any loss incurred attributable to any activity undertaken or omitted pursuant to this Agreement or any product, structure, or condition created pursuant to, or as a result of, this Agreement.

57. WORK PRODUCTS

The Grantee must provide the CIWMB with copies of all final products identified in the Work Plan.

58. WORKERS' COMPENSATION/LABOR CODE

The Grantee is aware of Labor Code section 3700, which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the Labor Code, and the Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement.

EXHIBIT B

PROCEDURES AND REQUIREMENTS

Tire Product Commercialization and Applied Technologies Grant Program FY 2003/2004

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INTRODUCTION

The Procedures and Requirements of California Integrated Waste Management Board's (CIWMB) Tire Product Commercialization and Applied Technologies Grant Program Grant Agreement (Agreement) describes project and reporting requirements, report due dates, report contents, grant payment conditions, eligible and ineligible project costs, project completion and close-out procedures, records and audit requirements.

**PUBLICITY AND
ACKNOWLEDGEMENT**

The Grantee agrees to acknowledge CIWMB's support whenever projects funded by this Grant Agreement (in whole or in part) are publicized in any news media, brochures, promotional materials, or other types of print media. Acknowledgement of CIWMB's funding should read, "Funded by a Grant from the California Integrated Waste Management Board." Use of the initials "CIWMB" is not sufficient unless pre-approved in writing by the Grant Manager.

**PROJECT
REQUIREMENTS**

CIWMB may reject payment requests, portions thereof, and/or require reimbursement of grant funds already paid to the grantee if the following project requirements are not met.

- One hundred percent (100%) California generated waste tires must be used in the performance of this grant project.
- The amount of waste tires diverted from landfills and illegal dumping must be at least what was indicated in the Grant Application (see Exhibit E).
- Grant or match funded equipment must be used as indicated in the Grant Application (see Exhibit E).
- Equipment purchased with grant funds must remain in California during the term of the grant and for five years after the end of the grant term.

**RELIABLE
CONTRACTOR
DECLARATION**

The Reliable Contractor Declaration (CIWMB 168) must be completed and submitted to your Grant Manager prior to authorizing a contractor(s) to commence work. Failure to provide this documentation in a timely manner may result in nonpayment of funds.

See "Unreliable List" provision on page 12 in Exhibit A - Terms and Conditions for more information. .

**REPORT
REQUIREMENTS**

Progress Reports and the Final Report are required by this Agreement.

Progress Reports:

The Progress Reports must be prepared in accordance with the format specified in the Progress Report section of this document.

Final Report:

The Final Report must be prepared in accordance with the format specified in the Final Report section of this document.

Note: All reports must be current and approved before Grant Payment Requests can be processed. Failure to comply with the specified reporting requirements or the approved work plan may result in the termination of this Agreement or suspension of any outstanding Grant Payment Requests. Any problems or delays must be reported immediately to the Grant Manager.

REPORT DUE DATESProgress Reports:

The Grantee must submit Progress Reports to the Grant Manager based on the schedule below. The reporting period begins when the Grant Agreement has been executed. CIWMB may immediately suspend or terminate the Grant Agreement if progress is deemed unsatisfactory.

Final Report:

The Final Report and final Grant Payment Request must be submitted by April 17, 2006. If not received by April 17, 2006, CIWMB may not be able to process the final Grant Payment Request.

Report	Report Due	Reporting Period
Progress Report	January 17, 2005	Notice to Proceed Date– December 2004
Progress Report	July 15, 2005	January 2005 – June 2005
Progress Report	January 16, 2006	July 2005 – December 2005
Draft Final Report	March 15, 2006	Notice to Proceed Date – April 1, 2006
Final Report	April 17, 2006	Notice to Proceed Date – April 1, 2006

**REPORT AND PAYMENT
REQUEST SUBMITTAL**

Please submit all reports and payment requests to:

California Integrated Waste Management Board
Attn: Linda Dickinson
Special Waste Division, MS# 22
1001 I Street, P.O. Box 4025
Sacramento, CA 95812-4025

PROGRESS REPORTS

Progress Reports are a requirement of this Agreement and must be prepared in the format specified below.

Report Component	Description
Cover Page	<p>Include the following:</p> <ul style="list-style-type: none"> • Name of the grantee • Grant number • Amount of grant award • Dates of report coverage • Report preparation date • Disclaimer statement, as follows: <p>"The statements and conclusions of this report are those of the Grantee and not necessarily those of the California Integrated Waste Management Board, its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for the information contained in the succeeding text."</p>
Table of Contents	Identify report contents and corresponding page numbers.
Executive Summary	<ul style="list-style-type: none"> • Provide a brief summary of the project and the status of the goals and objectives. If the goals and objectives have not been met, identify the principle reason(s) why. • Provide evidence that your project is working towards consuming the amount of passenger tire equivalents (PTEs) claimed in the application. • Briefly describe the progress of each task in the Work Plan including: <ul style="list-style-type: none"> • Products or equipment purchased or installed • Results achieved • Problems encountered
Project Status	<p>Briefly describe the progress of each task in the Work Plan (Exhibit C) including:</p> <ul style="list-style-type: none"> • Products or equipment purchased or installed • Results achieved • Problems encountered <p>Describe any proposed changes to the project and/or schedule including:</p> <ul style="list-style-type: none"> • Changes in Grantee contact information should be indicated • Changes or modifications to the Work Plan <p><i>Note: Changes or modifications to the Work Plan must be submitted in writing by the Grantee. The Grant Manager must approve the proposed changes in writing prior to the Grantee performing the changed work. Only minor changes will be considered.</i></p>

**PROGRESS REPORTS
(CONTINUED)**

Accomplishments	Describe the accomplishments achieved during the current reporting period. Indicate what tasks will be completed in the next reporting period.
Financial Status	<p>Provide a comparison of the costs incurred during the reporting period with the approved Budget (Exhibit D) including:</p> <ul style="list-style-type: none"> • Whether the project is progressing within the approved Budget • Proposed changes or modifications to the Budget <p><i>Note: Changes or modifications to the Budget must be submitted in writing by the Grantee. The Grant Manager must approve the proposed changes in writing prior to the Grantee incurring the cost. Only minor changes will be considered.</i></p>
Grant Payment Request	<p>Grant Payment Request may be made upon submittal of a Progress Report.</p> <p>Grant payments may be requested intermittently throughout the grant term.</p> <p>See the “Grant Payment Request and Documentation” section on page 22 for payment request requirements.</p>

FINAL REPORT

The Final Report is a requirement of this Agreement and must be prepared in the format specified below. The Draft Final Report is due on March 15, 2006. Once approved, the Final Report must be an original, double-sided document submitted on recycled-content paper containing at least thirty percent (30%) post-consumer fiber. Also, submit an electronic copy in Microsoft Word format. The Final Report is due to the Grant Manager by **April 17, 2006**. If requested, the Grantee shall make an oral presentation to CIWMB.

Report Component	Description
Cover Page	<p>Include the following:</p> <ul style="list-style-type: none"> • Name of the grantee • Grant number • Amount of grant award • Dates of report coverage • Report preparation date • Disclaimer statement, as follows: <p>"The statements and conclusions of this report are those of the Grantee and not necessarily those of the California Integrated Waste Management Board, its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for the information contained in the succeeding text."</p>
Table of Contents	Identify report contents and corresponding page numbers in a Table of Contents format.
Executive Summary	<ul style="list-style-type: none"> • Provide a concise summary of the project and its goals and objectives. Explain how the goals and objectives were accomplished. • Provide evidence that your project is consuming the amount of passenger tire equivalents (PTEs) claimed in the Grant Application (see Exhibit E). <p>Briefly describe the completion of each task in the Work Plan including:</p> <ul style="list-style-type: none"> • Products or equipment purchased or installed • Results achieved • Problems encountered

**FINAL REPORT
(CONTINUED)**

Evaluation	Report any findings or recommendations that resulted from the project. Note: This section must directly relate to the evaluation component of your application.
Future Intent	Describe how lessons learned from this project will be applied to future projects.
Waste Tires Diverted	Indicate the number of California waste tires diverted from the waste stream as a result of the project's completion. This must correlate to what was claimed in the application. a) If your grant is for the manufacture of tire derived products, you must provide verification that tires purchased were from California by signing the Recycled-Content Certification for the Waste Tire Grant Program (Form 74G); and/or, b) If your grant is for the purchase of equipment, a form must be signed indicating all tires processed through or by the equipment were California generated waste tires (California Commercialization Certification).
Contractor Summary	List all contractors and subcontractors involved in the project. For each contractor and subcontractor include the following information: <ul style="list-style-type: none"> • Name • Address • Concise statement of work completed • Time period in which the work was completed Amount paid
Photographs	Submit printed and electronic photographs (on diskette or CD) of the equipment or tire derived product. Also, you may be requested to include a small sample of the product.
Appendices	Include copies of the following: <ul style="list-style-type: none"> • Brochures • Flyers • Newspaper articles • Documents developed using grant funds
Grant Payment Request	The Final Report and the final Grant Payment Request must be submitted simultaneously. See the "Grant Payment Request and Documentation" section on page 22 for payment request requirements. <i>Note: The 10% withhold cannot be reimbursed until the end of the grant term (April 1, 2006) when the Final Report has been approved by the Grant Manager.</i>

**GRANT PAYMENT
CONDITIONS****Grantee:**

1. When signing the Grant Payment Request (CIWMB 87), the Grantee is signing that all claimed expenses submitted are appropriate. All costs claimed must be reasonable, cost-effective, and directly related to the implementation and operation of the project as submitted in the Grant Application (Exhibit E).
2. The Grantee must submit a completed Grant Payment Request (CIWMB 87) and supporting documentation as described in the "Grant Payment Request Documentation" section. Payments to the Grantee for grant expenses are made on a reimbursement basis.
3. The Grantee should provide evidence of meeting the minimum matching fund requirement with each payment request.
4. The Grantee must submit the required Progress Report(s)/Final Report and the Grant Manager must approve the report.
5. The Reliable Contractor Declaration (CIWMB 168) must be completed and submitted to your Grant Manager prior to authorizing a contractor(s) to commence work. Failure to provide this documentation in a timely manner may result in nonpayment of funds. (See "Unreliable List" provision on page 12 in Exhibit A - Terms and Conditions for more information.)
6. An up-to-date General Checklist of Business Permits, Licenses, and Filings (CIWMB 669) must be submitted with each Grant Payment Request.
7. Recycled-Content Certification Form 74G - Regardless of the recycled content, or even if the product has no recycled content, the supplier of every purchase made with grant funds must fill out and sign the Recycled-Content Certification Form 74G.
8. If your grant is for the purchase of equipment, a form must be signed indicating all tires processed through or by the equipment were California generated waste tires (California Commercialization Certification).
9. Grantees must execute all documents required to complete CIWMB's security interest prior to any payment of grant funds.

CIWMB:

1. CIWMB will reimburse the Grantee for performing only those services specified in the Budget Itemization (Exhibit D) and/or Grant Application (Exhibit E). The Grant Manager must approve any proposed changes in writing prior to the Grantee incurring the cost.
2. CIWMB will withhold and retain ten percent (10%) of each Grant Payment Request until all conditions stipulated in the Agreement have been satisfied. Reimbursement of the ten percent (10%) withhold must be requested in the final Grant Payment Request. *The 10% withhold cannot be reimbursed until the end of the grant term (April 1, 2006) when the Final Report has been approved by the Grant Manager*
3. CIWMB will only make payments to the Grantee. It is the Grantee's responsibility to pay all contractors and subcontractors for purchased goods and services.
4. CIWMB will make payments to the Grantee as promptly as fiscal procedures permit. The Grantee can typically expect payment within three to four weeks from the date a Grant Payment Request is approved by the Grant Manager.

ELIGIBLE PROJECT COSTS

Eligible costs are expenditures incurred during the term of the grant as described in the Grantee's approved Budget (Exhibit D). Eligible costs can only be incurred after receiving the Notice to Proceed through April 1, 2006. All costs claimed must be reasonable, cost-effective, and directly related to the implementation and operation of the project.

Note: It is the Grantee's responsibility to review all documents, letters, e-mails, and other information updates supplied by CIWMB.

INELIGIBLE PROJECT COSTS

Ineligible costs are any costs not directly related to the Tire Product Commercialization and Applied Technologies Grant Program. Ineligible costs include, but are not limited to, the following grant funds or match monies:

- Costs incurred prior to the date on the Notice to Proceed or after April 1, 2006;
- Costs not identified in the approved Budget;
- Costs currently covered by another CIWMB grant, contract, or loan;
- Costs related to recycling non-California waste or used tires;
- All costs associated with obtaining permits and/or licenses;
- Maintenance costs
- Costs associated with patents, such as patent searches;
- Expenses incurred for meetings, workshops, training, food, or beverages;
- Overhead expenses such as costs for rental/lease of space, utilities, office supplies, and other miscellaneous costs incurred during the project;
- Purchasing or leasing of vehicles by non-governmental agencies or businesses;
- Overtime costs (except for local government staffing during evening or weekend events when law or labor contract requires overtime compensation);
- Out-of-state travel;
- Any food or beverages (e.g., as a part of meetings, workshops, training, or events);
- Profit or mark-up by grantee;
- Any personnel costs not directly related to salaries, wages, and/or benefits;
- Any costs that are not consistent with local, state, and federal guidelines and regulations;
- Interest charges or payments on bonds or indebtedness required to finance project costs;
- Fines or penalties, due to violation of federal, state or local laws, ordinances, or regulations;
- Personnel travel or per diem costs;
- Cell phone, pager, electronic personal assistance device, camera's, etc.;
- Costs connected with contractor claims/liens against the grantee;
- Permit, inspection and use fees;
- Bonus payments for early completion of work;
- All cost attributable to county or state building licensing and permit fees, sewer/utility use or unit fees/or other building inspection fees; and
- Any other costs not deemed reasonable by the Grant Manager.

**GRANT PAYMENT
REQUEST AND
DOCUMENTATION**

1. Submit a Grant Payment Request (CIWMB 87) with an original signature of the individual or his/her designee, as authorized in the “letter of authorization.” A copy or faxed Grant Payment Request form will not be approved for payment. To obtain the Grant Payment Request (CIWMB 87), see www.ciwmb.ca.gov/Grants/Forms/CIWMB087.doc.
2. Submit an itemization document listing all expenses that correlate to the Work Plan (Exhibit C) and Budget (Exhibit D). If the costs do not clearly relate to a specific task, the payment will not be approved.
3. Submit supporting documentation for CIWMB grant funds and for the match requirement with each grant payment request.
Note: If a grant payment request is submitted for \$25,000, a corresponding \$12,500 should also be submitted for the match requirement)
 - Supporting documentation must include invoices, receipts or purchase orders containing:
 - Vendor name, phone number or address, purchase amount and date
 - Description of goods or services
 - Proof of payment (e.g., copies of cancelled checks, invoice marked as paid and receipts)*Note: An accounting reports may be accepted as proof of payment if it contains the check number, date of invoice, vendor name, amount, and date paid.*
 - Calculate personnel expenditures for employees, detailing costs by employee classification, hourly wage, fringe benefit rate, and number of hours worked on grant activities (functional timesheets).
 - Timesheets and supporting personnel expenditures must be available for audit purposes for three years after the end of the grant term.
 - *All costs must be clearly linked to a specific task on the Work Plan and Budget or the payment will not be approved.*
 - *All supporting documentation must be maintained in accordance with the “Audit/Records Access” section of the Terms and Conditions.*
4. Submit a Recycled-Content Certification form (CIWMB 74G) completed by the manufacturer(s). To obtain the Recycled Content Certification form (CIWMB 74G), see www.ciwmb.ca.gov/Grants/Forms/CIWMB074GTire.doc.
5. Submit an updated General Checklist of Business Permits, Licenses and Filings form (CIWMB 669). To obtain the General Checklist of Business Permits, Licenses and Filings form (CIWMB 669), see www.ciwmb.ca.gov/Grants/Forms/CIWMB669.doc.

**PROJECT COMPLETION
AND GRANT CLOSE-
OUT**

The Grantee must submit a Final Report, final Grant Payment Request, and all required documentation (including, but not limited to, documentation of any outstanding grant and matching expenses and documentation demonstrating that the matching requirement has been satisfied) by April 15, 2006.

The Grant Manager will determine if all applicable administrative actions and all work specified in the Work Plan are complete. Upon the Grant Manager’s approval of the Final Report, final Grant Payment Request and all required documentation, CIWMB will release the ten percent (10%) retention and any remaining grant funds owed to the Grantee.

**RECORDS AND AUDIT
REQUIREMENTS**

This grant is subject to a desk or field audit. See the “Audit/Records Access” provision on pages 4-5 in Exhibit A - Terms and Conditions for more information. This grant is subject to a desk or field audit. Records for this project must remain in California, as more fully described in Exhibit A, Terms and Conditions, “Audit/Records Access.” The Grantee must retain all financial and grant program documents, including but not limited to statistical records, supporting documents, source documents, expenditure ledgers, payroll register entries, time sheets, paid warrants, contracts, change orders, invoices, and canceled checks that substantiate the expenditures claimed. All documents must be made available at the time of an audit.

**PROPERTY PURCHASED
WITH GRANT AND/OR
MATCH FUNDS**

All property, including but not limited to equipment and/or supplies acquired with grant and/or match funds, shall be used by the Grantee only for the purposes for which CIWMB approved their acquisition for so long as such property is needed for such purpose, regardless of whether the Grantee continues to receive grant funds from CIWMB for such purposes. Equipment, supplies, etc. purchased with grant funds must remain in California for five years after the end of the grant term. Failure to comply with this requirement can result in costs incurred being deemed ineligible because the equipment is not being used for the intended purposes of the Agreement.

CIWMB will require that grantees secure their obligations under the Grant Agreement by executing a security agreement which provides for CIWMB to receive a purchase money security interest in any equipment or fixtures acquired with grant or match funds. Grantees must execute all documents required to complete CIWMB's security interest prior to any payment of grant funds.

**EXHIBIT C
WORK PLAN**

TASK 1

The **GRANTEE** shall:

1a)

1b)

TASK 2

The **GRANTEE** shall:

2a

TASK 3

The **GRANTEE** shall:

3a)

3b)

TASK 4

The **GRANTEE** shall:

4a)

4b

5. TASK 5

The **GRANTEE** shall:

5a)

5b)

**EXHIBIT D
BUDGET**

TASK	GRANT FUNDS	MATCHING FUNDS
1	\$	\$
2	\$	\$
3	\$	\$
4	\$	\$
5	\$	\$
Subtotals	\$	\$
TOTAL PROJECT COST	\$	

EXHIBIT E
GRANT APPLICATION

Attached is the Grant Application that is incorporated by inclusion to this Agreement.